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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,388	03/06/2002	Koji Imura	L9289.02139	2899

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EXAMINER

LEE, RICHARD J

ART UNIT

PAPER NUMBER

2613

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/070,388	IMURA ET AL.	
	Examiner	Art Unit	
	Richard Lee	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,4,6,9,11,12,14-16,18,19,21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5,7,8,10,13,17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election with traverse of Group II drawn to claims 2, 5, 7, 8, 10, 13, 17, and 20 is acknowledged. The applicant cites MPEP 803 and states that the traversal is on the grounds that no unduly extensive or burdensome search would be required to examine the claims of the various species in the same application, since the fields of search would likely overlap. The applicant further argues that it would be costly for the applicant to file separate applications and to require the claims of the various species to issue in separate patents would result in inconvenience to the public necessitating reference to more than one patent during searching. Applicant's arguments are found not persuasive because the search for one group is not required for the other group, and as such results in an undue burden on the Office. Though the search for the inventions may be coextensive or at least have significant overlap, it is however that the complete search for one group for example includes search areas not required for each of the other groups, and thus again causing "a serious burden" on the Office. Since the special technical feature of Group I is not present in Groups II and III, the special technical feature of Group II is not present in Groups I and III, and the special technical feature of Group III is not present in Groups I and II, restriction for examination purposes as indicated in proper. Claims 2, 5, 7, 8, 10, 13, 17, and 20 will now be examined, while claims 1, 3, 4, 6, 9, 11, 12, 14-16, 18, 19, 21, and 22 will be withdrawn from further consideration.

The requirement is hereby made FINAL!

2. The International Search Report cited on the IDS filed March 6, 2002, Korean Office Action cited on the IDS filed September 28, 2004, and the European Search Report cited on the IDS filed March 3, 2005 have all not been considered since search reports and office actions are

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not considered publications. A line has been drawn through the respective citations accordingly (see attached PTO-1449s).

3. Claims 5, 7, 8, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For examples:

(1) claim 5, lines 5-6, "said plurality of coded transmission unit" shows no clear antecedent basis;

(2) claim 13, line 14, "transmission-unit generation step" should be changed to "the transmission-unit generation procedure" in order to provide proper antecedent basis for the same as specified at line 6; and

(3) claim 13, line 15, "the decided significance" shows no clear antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 2, 5, 7, 8, 10, 13, 17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato et al (6,151,360).

Kato et al discloses a method for encoding video signal using statistical information as shown in Figures 3 and 17, and the same image coding apparatus and method, image transmission apparatus, computer-readable recording medium which stores an image coding

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program, a significance decision method, and a computer-readable recording medium which stores a significance decision program as claimed in claims 2, 5, 7, 8, 10, 13, 17, and 20, comprising the same coding means (see column 5, line 38 to column 6, line 18) for performing coding processing of images on macroblock-by-macroblock basis; significance decision means for counting a number of macroblocks and an amount of codes included in one transmission unit whenever a plurality of macroblocks coded in said coding means are generated as said one transmission unit (i.e., counter 31 of Figure 3 counts the data quantity of variable length encoded data every preset time interval, the preset time interval pertaining to a macroblock, and bit rate calculation circuit 32 of Figure 3 provides the amount of codes included in a preset time interval, i.e. one transmission unit, whenever a plurality of macroblocks coded in the coding means are generated as one transmission unit (see column 6, lines 5-18, column 7, lines 15-35, column 17, line 1-31)), obtaining an average amount of codes per macroblock from the counted results (bit rate calculation circuit 32 of Figure 3 calculates an average amount of codes per macroblock from the counted results, see column 6, lines 5-18, column 17, lines 1-31), and deciding the significance in image decoding of the transmission unit at a transmission end according to the obtained average amount of codes, and adding the decided significance as significance information to the transmission unit (i.e., encoding circuit 40 of Figure 3 sets a target code amount, derived from the first encoding 30 every pre-set time interval, thereby providing the significance in image decoding of the transmission unit of a transmission end according to the obtained average amount of codes as provided by 32 within first encoding 30 of Figure 3, see column 5, lines 22-67, column 22, lines 44-67); and an image distribution server and base station

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apparatus comprising the image transmission apparatus (see Figures 3 and 17, column 5, lines 38-67).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Ueda discloses a moving picture compressing apparatus and moving picture compressing method.

Hyodo et al discloses a code amount control device.

Kato et al (5,719,986) discloses a video signal encoding method.

Kawashima et al discloses a device and method for coding video information.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.


RICHARD LEE
PRIMARY EXAMINER

Richard Lee/rl

6/9/05

